

something. But there were no restrictions on foreign intelligence collection.

Mr. Speaker, unfortunately, technology has now changed, and what used to be over the air is now almost all on a wire. The courts have found that under the old Foreign Intelligence Surveillance Act, before we changed it in August of this year, that if you touched a wire in the United States, even if you were targeting a foreign terrorist talking to another foreign terrorist who had no connection to the United States at all, then you needed a warrant. This began very rapidly to ripple our intelligence capability with respect to terrorism in particular.

The Director for National Intelligence, Admiral McConnell, has testified in open session that without the changes, without keeping the changes, making them permanent, that we put in place in August, we will lose between one-half and two-thirds of our intelligence collection on terrorism. Think about this for a second.

Now we all remember where we were on the morning of September 11, remember who we were with, what we were wearing, what we had for breakfast. Most Americans don't remember where they were when the British Government arrested 16 people who were within 48 hours of walking onto airliners at Heathrow Airport and blowing them up simultaneously over the Atlantic. They don't remember it because it didn't happen.

The American people want us to prevent the next terrorist attack. They don't want to have to remember where they were when a preventable disaster happened. That is what intelligence gives us, and that is why the Protect America Act is so important and why we have to make it permanent.

Sadly, the Democratic majority is going to bring a bill to the House this week which will gut the progress that we made in early August. They say things in this bill that, on its face, initially you think, well, that makes sense. One of them is you would not need a warrant for any foreign-to-foreign communication.

Well, doesn't that solve the problem? Wait a second. If Mr. LUNGREN, my colleague from California, was a foreign terrorist, just for the purposes of discussion, how do I know who he is going to call next? I don't. And if the law says that it is a felony to listen to the conversation of someone who is a foreigner calling into the United States, that means as soon as I collect that conversation, as soon as that terrorist makes a phone call into the United States, I become a felon. As a result, you have to have warrants on everyone.

It doesn't relieve the system of this huge legal bureaucracy. It means they have to get warrants on every foreigner in foreign countries, even if they are only talking to foreigners, because they might some day pick up the phone and call an American. And, oh, by the way, that is the conversation we want

to be listening to. If we have a terrorist affiliated with al Qaeda calling into the United States, you bet we should be on that conversation. We should be all over that like white on rice. We shouldn't be waiting to get a warrant from a judge in Washington, D.C.

But it gets worse than that. They also put in this bill some things called blanket warrants.

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, reclaiming my time, I have referred to that section, that first section where they say you don't need it if it is foreign-to-foreign as the "furtive fig leaf" section of the bill, which appears to give Admiral McConnell what he needs, but because of the actual practicality of it, denies him the opportunity to do it, because essentially that was sort of the state of the law prior to the time we passed the law in August, and he told us it doesn't work.

Mrs. WILSON of New Mexico. If the gentleman would yield further, that is exactly right. There is already a provision in the law and was in 1978 that if it was foreign-to-foreign communication, you didn't need a warrant.

There are some circumstances where you are tapping into a line that is between a command headquarters of the former Soviet Army and one of their missile silos where it is a dedicated line. But modern telecommunications don't operate that way, and the terrorists who are trying to kill us are using modern commercial telecommunications. They are not using dedicated lines between headquarters. They don't even have headquarters.

Mr. DANIEL E. LUNGREN of California. If the gentlewoman would allow me to reclaim my time for a moment, evidently some on the other side of the aisle have listened to a little bit of our complaint here, so in the manager's amendment they have included what they consider to be the saving piece of that first section, which says if the electronic surveillance referred to in paragraph 1 inadvertently collects a communication in which at least one party to the communication is located inside the U.S. or is a United States person, the contents of such communication shall be handled in accordance with minimization procedures adopted by the Attorney General.

If that is all they did, that would be fine with me. But they then go on to say this, that require that no contents of any communication to which the United States person is a party shall be disclosed, disseminated or used for any purpose or retained for longer than 7 days, unless you get a court order or unless the Attorney General determines specifically in this case that the information indicates a threat of death or serious bodily harm to any person.

Now, Admiral McConnell has suggested to us that time frame, they say you can't keep it longer than 7 days, may not be practical within the contours of how we actually get that information, number one; and, secondly,

you can't use that information. You can't give it to anybody. You can't disclose it to the FBI, even though the information doesn't make the person in the United States a target, the information contained in that conversation is all about Osama bin Laden calling into the United States and something he says that is important for our purposes. That is the extraordinary thing here, because it says no contents of any communication to which the United States person is a party shall be disclosed, disseminated or used.

It is exactly contrary to what Admiral McConnell said, which is the law should be directed at the identity of the individual we are targeting. So in this case, because you now capture a conversation that has taken place with the foreign person in a foreign land into the United States, even though it doesn't give rise to anything that would make a target of that person in the United States, you can't use any of that conversation with respect to the target for which you don't need a warrant, even though that person could be Osama bin Laden or one of his top people.

That is nuts. With all due respect, I use the word "nuts," but I think that is probably proper.

Mrs. WILSON of New Mexico. Let's just think of an example here. Let's say Osama bin Laden or one of his chief lieutenants did call into the United States to a completely innocent person, a completely innocent person under this law which the Democrats are going to try to pass this week, and what he says in that conversation is "Don't go to the Sears Tower tomorrow. Stay away from the Sears Tower tomorrow." Whoever in the intelligence community gets that communication is barred by law from giving it to anyone who can take any action to prevent a terrorist attack on this country.

Mr. DANIEL E. LUNGREN of California. Unless they go to court and get an order, which requires all of the necessary preparation that Admiral McConnell has told us we cannot do.

Mrs. WILSON of New Mexico. You may not even know who the person is being called, other than it is an area code and number in the United States, which means you don't have any probable cause. You have to send the FBI out and find out whose number that is and whether they are reasonably believed to be involved in a crime.

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But the threat is immediate. We cannot have our intelligence agencies tied up in legal redtape when they are the first line of defense for this country in the war on terrorism.

I am appalled that we have people in this body who put forward legislation who seem to be more concerned about protecting the civil liberties of terrorists overseas than they are about protecting Americans here at home and preventing the next terrorist attack.